

PART 400—REGULATIONS OF THE FOREIGN-TRADE ZONES BOARD

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AUTHORITY: Foreign-Trade Zones Act of June 18, 1934, as amended (Pub. L. 397, 73rd

Congress, 48 Stat. 998–1003 (19 U.S.C. 81a–81u)).

SOURCE: 56 FR 50798, Oct. 8, 1991, unless otherwise noted.

Subpart A—Scope and Definitions

§ 400.1 Scope.

(a) This part sets forth the regulations, including the rules of practice and procedure, of the Foreign-Trade Zones Board with regard to foreign-trade zones in the United States pursuant to the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u). It includes the substantive and procedural rules for the authorization of zones and the regulation of zone activity. The purpose of zones as stated in the Act is to “expedite and encourage foreign commerce, and other purposes.” The regulations provide the legal framework for accomplishing this purpose in the context of evolving U.S. economic and trade policy, and economic factors relating to international competition.

(b) Part 146 of the regulations of the United States Customs Service (19 CFR part 146) governs zone operations, including the admission of merchandise into zones, zone activity involving such merchandise, and the transfer of merchandise from zones.

(c) To the extent “activated” under Customs procedures in 19 CFR part 146, and only for the purposes specified in the Act (19 U.S.C. 81c), zones are treated for purposes of the tariff laws and Customs entry procedures as being outside the Customs territory of the United States. Under zone procedures, foreign and domestic merchandise may be admitted into zones for operations such as storage, exhibition, assembly, manufacture and processing, without being subject to formal Customs entry procedures and payment of duties, unless and until the foreign merchandise enters Customs territory for domestic consumption. At that time, the importer ordinarily has a choice of paying duties either at the rate applicable to the foreign material in its condition as admitted into a zone, or if used in manufacturing or processing, to the emerging product. Quota restrictions do not normally apply to foreign goods in zones. The Board can deny or limit the

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use of zone procedures in specific cases on public interest grounds. Merchandise moved into zones for export (zone-restricted status) may be considered exported for purposes such as federal excise tax rebates and Customs drawback. Foreign merchandise (tangible personal property) admitted to a zone and domestic merchandise held in a zone for exportation are exempt from certain state and local *ad valorem* taxes (19 U.S.C. 81o(e)). Articles admitted into zones for purposes not specified in the Act shall be subject to the tariff laws and regular entry procedures, including the payment of applicable duties, taxes, and fees.

[56 FR 50798, Oct. 8, 1991; 56 FR 56544, Nov. 5, 1991]

§ 400.2 Definitions.

(a) *Act* means the Foreign-Trade Zones Act of 1934, as amended.

(b) *Board* means the Foreign-Trade Zones Board, which consists of the Secretary of the Department of Commerce (chairman) and the Secretary of the Treasury, or their designated alternates.

(c) *Customs Service* means the United States Customs Service of the Department of the Treasury.

(d) *Executive Secretary* is the Executive Secretary of the Foreign-Trade Zones Board.

(e) *Foreign-trade zone* is a restricted-access site, in or adjacent to a Customs port of entry, operated pursuant to public utility principles under the sponsorship of a corporation granted authority by the Board and under supervision of the Customs Service.

(f) *Grant of authority* is a document issued by the Board which authorizes a zone grantee to establish, operate and maintain a zone project or a subzone, subject to limitations and conditions specified in this part and in 19 CFR part 146. The authority to establish a zone includes the authority to operate and the responsibility to maintain it.

(g) *Manufacturing*, as used in this part, means activity involving the substantial transformation of a foreign article resulting in a new and different article having a different name, character, and use.

(h) *Port Director* is normally the director of Customs for the Customs ju-

risdictional area in which the zone is located.

(i) *Port of entry* means a port of entry in the United States, as defined by part 101 of the regulations of the Customs Service (19 CFR part 101), or a user fee airport authorized under 19 U.S.C. 58b and listed in part 122 of the regulations of the Customs Service (19 CFR part 122).

(j) *Private corporation* means any corporation, other than a public corporation, which is organized for the purpose of establishing a zone project and which is chartered for this purpose under a law of the state in which the zone is located.

(k) *Processing*, when referring to zone activity, means any activity involving a change in condition of merchandise, other than manufacturing, which results in a change in the Customs classification of an article or in its eligibility for entry for consumption.

(l) *Public corporation* means a state, a political subdivision (including a municipality) or public agency thereof, or a corporate municipal instrumentality of one or more states.

(m) *State* includes any state of the United States, the District of Columbia, and Puerto Rico.

(n) *Subzone* means a special-purpose zone established as an adjunct to a zone project for a limited purpose.

(o) *Zone* means a foreign-trade zone established under the provisions of the Act and these regulations. Where used in this part, the term also includes subzones, unless the context indicates otherwise.

(p) *Zone grantee* is the corporate recipient of a grant of authority for a zone project. Where used in this part, the term “grantee” means “zone grantee” unless otherwise indicated.

(q) *Zone operator* is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee or an intermediary entity, with the concurrence of the Port Director.

(r) *Zone project* means the zone plan, including all of the zone and subzone sites that the Board authorizes a single grantee to establish.

(s) *Zone site* means the physical location of a zone or subzone.

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(t) *Zone user* is a party using a zone under agreement with the zone grantee or operator.

[62 FR 53534, Oct. 15, 1997]

Subpart B—Foreign-Trade Zones Board

§ 400.11 Authority of the Board.

(a) *In general.* In accordance with the Act and procedures of this part, the Board has authority to:

(1) Prescribe rules and regulations concerning zones;

(2) Issue grants of authority for zones and subzones, and approve modifications to the original zone project;

(3) Approve manufacturing and processing activity in zones and subzones as described in subpart D of this part;

(4) Make determinations on matters requiring Board decisions under this part;

(5) Decide appeals in regard to certain decisions of the Commerce Department's Assistant Secretary for Import Administration or the Executive Secretary;

(6) Inspect the premises, operations and accounts of zone grantees and operators;

(7) Require zone grantees to report on zone operations;

(8) Report annually to the Congress on zone operations;

(9) Restrict or prohibit zone operations;

(10) Impose fines for violations of the Act and this part;

(11) Revoke grants of authority for cause; and

(12) Determine, as appropriate, whether zone activity is or would be in the public interest or detrimental to the public interest.

(b) *Authority of the Chairman of the Board.* The Chairman of the Board (Secretary of the Department of Commerce) has the authority to:

(1) Appoint the Executive Secretary of the Board;

(2) Call meetings of the Board, with reasonable notice given to each member; and

(3) Submit to the Congress the Board's annual report as prepared by the Executive Secretary.

(c) *Alternates.* Each member of the Board will designate an alternate with authority to act in an official capacity for that member.

(d) *Determinations of the Board.* (1) The determination of the Board will be based on the unanimous vote of the members (or alternate members) of the Board.

(2) All votes will be recorded.

(3) The Board will issue its determination in proceedings under the regulations in the form of a Board order.

[56 FR 50798, Oct. 8, 1991, as amended at 62 FR 53535, Oct. 15, 1997]

§ 400.12 Responsibilities and authority of the Executive Secretary.

The Executive Secretary has the following responsibilities and authority:

(a) Represent the Board in administrative, regulatory, operational, and public affairs matters;

(b) Serve as director of the Commerce Department's Foreign-Trade Zones staff;

(c) Execute and implement orders of the Board;

(d) Arrange meetings and direct circulation of action documents for the Board;

(e) Arrange with other sections of the Department of Commerce, Board agencies and other governmental agencies for studies and comments on zone issues and proposals;

(f) Maintain custody of the seal, records, files and correspondence of the Board, with disposition subject to the regulations of the Department of Commerce;

(g) Issue notices on zone matters for publication in the FEDERAL REGISTER;

(h) Determine subzone sponsorship questions as provided in § 400.22(d);

(i) Determine whether additional information is needed for evaluation of applications and other requests for decisions under this part, as provided for in various sections of this part, including §§ 400.24, 400.25, and 400.26;

(j) Issue guidelines on information required for subzone applications under § 400.25(a)(6);

(k) Determine whether proposed modifications involve major changes under § 400.26(a)(2);